

148 FERC ¶ 61,085
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Cheryl A. LaFleur, Acting Chairman;
Philip D. Moeller, John R. Norris,
and Tony Clark.

Entergy Services, Inc.	Docket Nos. ER07-682-006
Entergy Arkansas, Inc.	ER13-1673-000
Entergy Gulf States Louisiana, L.L.C.	ER13-1674-000
Entergy Louisiana, LLC	ER13-1675-000
Entergy Mississippi, Inc.	ER13-1676-000
Entergy New Orleans, Inc.	ER13-1677-000
Entergy Texas, Inc.	ER13-1678-000

ORDER ACCEPTING COMPLIANCE FILING AND REFUND REPORT, AND
DISMISSING REHEARING REQUEST

(Issued July 31, 2014)

1. On June 12, 2013, the Louisiana Public Service Commission (Louisiana Commission) filed a request for rehearing of the Commission's May 13, 2013 order on rehearing¹ of Opinion No. 506.² On June 12, 2013, and July 12, 2013, Entergy Services, Inc. (Entergy Services), on behalf of the Entergy Operating Companies,³ submitted filings to comply with the May 13 Order. In this order, we accept the compliance filings, direct Entergy to reflect the compliance adjustments and revised bandwidth calculations in its Intra-System Bill, and accordingly, dismiss the Louisiana Commission's request for rehearing as moot. Consistent with prior orders, we also direct Entergy to file a comprehensive bandwidth recalculation report showing all the updated payment/receipt amounts based on the 2006 and 2007 calendar year data in compliance with all bandwidth

¹ *Entergy Servs., Inc.*, 143 FERC ¶ 61,120 (2013) (May 13 Order).

² *Entergy Servs., Inc.*, Opinion No. 506, 130 FERC ¶ 61,026 (2010).

³ The Entergy Operating Companies include: Entergy Arkansas, Inc., Entergy Gulf States Louisiana, L.L.C., Entergy Louisiana, LLC, Entergy Mississippi, Inc., Entergy New Orleans, Inc., and Entergy Texas, Inc.

formula and bandwidth calculation adjustments that the Commission has accepted or ordered for those years.

I. Request for Rehearing

2. As relevant here, the May 13 Order agreed with the Louisiana Commission's claim that in Opinion No. 506, the Commission erred in permitting Entergy Corporation (Entergy) to functionalize its Account No. 924, Property Insurance, expense in the bandwidth formula based on a labor ratio that includes Service Company labor, rather than on plant ratios. The Commission ordered Entergy to amend the bandwidth formula accordingly. In Paragraph 54, the Commission stated:

If use of Entergy's modified labor ratios, instead of plant ratios, to functionalize Account No. 924 expenses resulted in a higher level of production costs included in the bandwidth formula for the Operating Companies, the difference represents an over-recovery for which Entergy should accordingly make refunds in accordance with the Commission's regulations.^{104/} (*emphasis added*)

^{104/} We note that refunds would only attach to any increase in production costs of the Operating Companies proposed in this proceeding. *See* 16 U.S.C. § 824d(e) (2006) (allowing the Commission to order public utilities "to refund, with interest . . . such portion of such increased rates or charges as by its decision shall be found not justified")

3. In its request for rehearing, the Louisiana Commission contends that Paragraph 54 of the May 13 Order sets a new standard that permits refunds for unjust and unreasonable cost allocations between affiliated operating companies only if the parent company over-recovers its revenue requirement, rather than when an affected operating company does.⁴

II. Compliance Filings

4. On June 12, 2013, Entergy Services made a compliance filing as required by the May 13 Order.⁵ This compliance filing implements the change to the bandwidth formula to utilize plant ratios to functionalize Account No. 924, Property Insurance, expense. Specifically, Entergy proposed to: (1) amend the bandwidth variable "AG" (Administrative and General O&M expense recorded in Account Nos. 920 through 935) to exclude not only Storm Accrual Expense, but also all other amounts recorded in

⁴ Louisiana Commission Rehearing Request at 2-5, 9-11.

⁵ Entergy made its June 12, 2013 Compliance Filing in Docket No. ER13-1673-000, *et al.*

Account No. 924, so that the amounts in Account No. 924 will no longer be functionalized using the labor ratio “PLRRB,” and accordingly renamed the variable “AG” as “AGX924”; (2) add the variable “924AG -- FERC Account No. 924 excluding Storm Accrual Expense”; and (3) functionalize the amounts included in Account No. 924, minus Storm Accrual Expense, using the variable “PPR” -- “Ratio of Production Plant to Total Plant excluding Intangible Plant.”⁶

5. On July 12, 2013, Entergy Services filed a compliance refund report as required by the May 13 Order.⁷ Entergy states that it recalculated the bandwidth payments/receipts for each of the applicable proceedings based on a functionalization of expenses in Account No. 924 using plant ratios.

6. Entergy Services notes in its filing that the use of plant ratios to functionalize Account No. 924 expenses results in a slightly lower level of production costs included in the bandwidth formula for the Operating Companies in total for each of the six annual bandwidth dockets (Docket Nos. ER07-956, ER08-1056, ER09-1224, ER10-1350, ER11-3658 and ER12-1920) as compared to the results of using labor ratios to functionalize the costs recorded in Account No. 924. As a result of using plant ratios to functionalize Account No. 924 expenses, the report indicates a \$17,457,000 decrease in overall actual production costs for all the Operating Companies combined for the six bandwidth years. This total reflects a decrease of \$5,283,000 for Entergy Arkansas, Inc., \$8,460,000 for Entergy Louisiana, LLC, \$2,639,000 for Entergy Mississippi, Inc., \$953,000 for Entergy New Orleans, Inc., \$257,000 for Entergy Texas, Inc. and an increase of \$135,000 for Entergy Gulf States Louisiana, L.L.C. for the six bandwidth years.

7. Noting the Louisiana Commission’s rehearing request, Entergy Services states that it is not clear whether there is an over-recovery, because in all dockets except Docket No. ER08-1056, Entergy Arkansas, Inc. must make additional payments as a result of the May 13 Order. Entergy Services notes that if the Commission ultimately concludes that there is an over-recovery based on the information in the refund report, Entergy Services will include the updated level of production costs (using plant ratios to functionalize Account No. 924, Property Insurance, expense) in the bandwidth formula recalculations for all the annual bandwidth filings.

⁶ In *Entergy Servs., Inc.*, 128 FERC ¶ 61,275, at PP 27-28 (2009), the Commission approved a settlement and amendment to exclude storm accrual costs in Account No. 924 from the calculation of production costs under Service Schedule MSS-3.

⁷ Entergy filed its July 12, 2013 Compliance Refund Report in Docket No. ER13-1673-000, *et al.*

III. Notice and Responsive Filings

8. Notice of Entergy's June 12, 2013 compliance filing was published in the *Federal Register*, 78 Fed. Reg. 36,765 (2013), with interventions and comments due on or before July 3, 2013. The Arkansas Public Service Commission (Arkansas Commission) filed a notice of intervention.

9. Notice of Entergy's July 12, 2013 compliance refund report was published in the *Federal Register*, 78 Fed. Reg. 43,191 (2013), with interventions and comments due on or before August 2, 2013. None was filed.

IV. Procedural Matters

10. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2013), the Arkansas Commission's notice of intervention serves to make it a party to this proceeding.

V. Commission Determination

11. We accept Entergy's June 12, 2013 compliance filing to amend the bandwidth formula as in compliance with the May 13 Order, to be effective May 30, 2007.

12. We also accept for filing Entergy's July 12, 2013 refund report. As the report indicates, using plant ratios instead of labor ratios to functionalize Account No. 924 expenses decreases the overall actual production costs for all the Operating Companies combined, for the six bandwidth years, by \$17,457,000. This, in turn, reflects decreases of \$5,283,000 for Entergy Arkansas, Inc., \$8,460,000 for Entergy Louisiana, LLC, \$2,639,000 for Entergy Mississippi, Inc., \$953,000 for Entergy New Orleans, Inc., and \$257,000 for Entergy Texas, Inc., and an increase of \$135,000 for Entergy Gulf States Louisiana, L.L.C. This demonstrates an over-recovery of production costs among the Operating Companies in the bandwidth formula calculations used to determine the annual bandwidth payments. Accordingly, Entergy must include the updated level of production costs using plant ratios to functionalize Account No. 924 expenses in the bandwidth formula recalculations.

13. The Commission has previously held that Entergy may file one comprehensive bandwidth recalculation report to comply with the Commission's final orders regarding the annual bandwidth calculations pending in numerous dockets.⁸ This is one of four

⁸ *Entergy Services, Inc.*, 142 FERC ¶ 61,011, at P 20 (2013). The Commission declined Entergy's proposal to defer this filing until the Commission's final orders became non-appealable, as this would unreasonably delay the recalculation. *Id.*

orders that the Commission is issuing concurrently,⁹ all related to Entergy's first and second annual bandwidth filings, which cover calendar years 2006 and 2007, respectively. The first annual bandwidth filing gave rise to Opinion No. 505;¹⁰ the second annual bandwidth filing, to Opinion No. 514.¹¹ Both bandwidth filings spawned numerous complaint and compliance dockets that the Commission has reviewed at length.¹² With the concurrent issuance of these four orders, now is the appropriate time for Entergy to recalculate and reallocate the bandwidth payments and receipts among the Operating Companies for these two bandwidth years.¹³

14. We therefore order Entergy to file, within 45 days of this order, a comprehensive bandwidth recalculation report showing the updated payments and receipts based on the 2006 and 2007 calendar year data in compliance with all bandwidth formula and

⁹ The four orders being issued concurrently include: *Entergy Services, Inc., et al.*, 148 FERC ¶ 61,085 (2014), *Entergy Services, Inc.*, 148 FERC ¶ 61,086 (2014), *Entergy Services, Inc.*, 148 FERC ¶ 61,087 (2014), and *Entergy Arkansas, Inc., et al.*, 148 FERC ¶ 61,088 (2014).

¹⁰ *Entergy Servs., Inc.*, Opinion No. 505, 130 FERC ¶ 61,023 (2010) *order on reh'g*, Opinion No. 505-A, 139 FERC ¶ 61,103, *order on compliance*, 139 FERC ¶ 61,104 (2012), *order granting clarification in part and deny'g clarification in part*, 145 FERC ¶ 61,045 (2013), *order on reh'g*, 145 FERC ¶ 61,046 (2013).

¹¹ *Entergy Servs., Inc.*, Opinion No. 514, 137 FERC ¶ 61,029 (2011), *order on reh'g*, Opinion No. 514-A, 142 FERC ¶ 61,013, *order on compliance filing*, 142 FERC ¶ 61,011 (2013).

¹² The following proceedings affect both the calendar year 2006 first annual bandwidth-recalculation and the calendar year 2007 second annual bandwidth-recalculation: Docket No. ER07-956, resulting in Opinion No. 505 (and its associated compliance filings in Docket No. ER12-1888-000, *et al.*); Docket No. ER07-682, resulting in Opinion No. 506 (and its associated compliance filings in Docket No. ER13-1673, *et al.*); Docket No. EL08-51, resulting in Opinion No. 509 (and its associated compliance filings in Docket No. ER11-2131, *et al.*); Docket No. EL07-52 (and its associated compliance filings in Docket Nos. ER12-1881, *et al.*). The following proceeding affects just the calendar year 2007 second annual bandwidth-recalculation: Docket No. ER08-1056, resulting in Opinion No. 514.

¹³ If the complaint pending in *La. Pub. Serv. Comm'n v. Entergy Servs. Inc.*, Docket No. EL09-61-001, ultimately alters the payments and receipts that the Commission directs Entergy to recalculate and reallocate among the Operating Companies here, the Commission will require Entergy to make the appropriate adjustment at that time.

bandwidth calculation adjustments that the Commission accepted or ordered, effective as of June 1, 2007 and June 1, 2008, respectively, along with supporting calculations for each identified adjustment

15. We further direct Entergy to adjust its first Intra-System Bill issued following the filing of the bandwidth recalculation report, to reflect the bandwidth recalculations for these two bandwidth years, with interest from June 1, 2007 or June 1, 2008, as appropriate, to the date of the Intra-System Bill, in accordance with section 35.19a of the Commission's regulations.¹⁴

16. Because we are ordering Entergy to adjust its Intra-System Bill to reflect the updated bandwidth calculations that result from using plant ratios to functionalize Account No. 924 expenses instead of labor ratios, we will dismiss the Louisiana Commission's request for rehearing as moot.

The Commission orders:

(A) The Louisiana Commission's request for rehearing is hereby dismissed, as discussed in the body of this order.

(B) Entergy's June 12, 2013 compliance filing is hereby accepted, to be effective May 30, 2007, as discussed in the body of the order.

(C) Entergy's July 12, 2013 refund report is hereby accepted for filing, as discussed in the body of the order.

(D) Within 45 days of this order, Entergy shall file a bandwidth recalculation report, as described in the body of the order.

(E) Entergy shall adjust its first Intra-System Bill issued following the filing of the bandwidth recalculation report, to reflect the bandwidth recalculation report, with interest, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

¹⁴ 18 C.F.R. § 35.19a (2013).